

## II. REMARKS

### **1. Remarks on the Amendment to the Claims:**

#### *(i) Claims 1-49*

Claims 4, 19, 32 and 45 have been canceled and claims 1, 12, 13, 25, 40 and 41 have been amended to expedite and focus prosecution on certain active ester embodiments.

#### *(ii) Claims 50-53*

As per the Interview Summary submitted herewith, the Examiner is requested to, if appropriate, issue a restriction requirement with respect to claims 50-53. If the Office determines that claims 50-53 are not patentably distinct, the claims will be canceled in this application and pursued in the currently pending applications.

#### *(iii) Claims 55-56*

New claims 55-56 are added to more distinctly claim subject matter for which applicants seek letters patent. Antecedent basis for these claims can be found throughout the specification but in particular at pages 5-13 and 15-18 of the application as filed.

It is believed that no new matter has been added by entry of any of the requested amendments.

### **2. Rejoinder of Claims**

According to pages 4-6 of the restriction requirement dated August 1, 2006, rejoinder of withdrawn method claims is proper where the scope of the withdrawn method claims is commensurate with the scope of the allowed product claims. Based upon the amendment set forth above, it is believed that these conditions exist in the present application. Accordingly, it is believed that withdrawn method claims 25-29, 34-42 and 47-49 should be rejoined in this application if the pending product claims are allowed.

### **3. Response to the Rejections:**

#### *(i) Restriction Requirement*

As per the discussion and agreement between attorney Gildea and Examiner Sackey on August 22, 2007, the claims have been limited to a select group of active esters. Accordingly, subject to an extended search by the Examiner, it is believed that the claim scope is acceptable notwithstanding the restriction requirement.

(ii) *Rejection for use of "comprising"*

Claims containing the word "comprising" have been amended. It is believed that the amendment renders the rejection moot. Reconsideration and withdrawal of the rejection is requested.

(iii) *Rejection for use of "leaving group of an active ester"*

It is well accepted that a word or phrase used in a claim does not render the claim indefinite where the ordinary practitioner would understand the scope of the claimed subject matter with reference to the word or phrase.

Attached as Exhibits A, B, C, D and E are various documents that demonstrate that "active ester" and "leaving group" are well-known terms of art in organic chemistry as well as demonstrate that the phrase "leaving group of an active ester" is likewise understood and used by the ordinary practitioner. In particular, Exhibits A and B demonstrate that "active ester" is a well-known term that has been used in the claims of at least 338 issued United States patents. Similarly, Exhibits C and D demonstrate that "leaving group" is a well-known term that has been used in the claims of at least 3391 issued United States patents. Finally, Exhibit E demonstrates that the phrase "leaving group of an active ester" is used in the description/specification of at least 26 issued United States patents. Further reference is made to the specification at page 2, lines 24-31 for use of "active ester" and page 17, lines 7-19 as well as page 18, lines 8-10 for use of "leaving group". Accordingly, it is believed that the present claims are not indefinite for use of the phrase "leaving group of an active ester". Reconsideration and withdrawal of the rejection is respectfully requested.

### III. SUMMARY

It is believed that this response addresses all issues set forth in the present Restriction Requirement and the application is in ready condition for allowance. In consideration of the preceding amendments and remarks, Applicants hereby respectfully request the issuance of a Notice of Allowance by The Office.

If the Examiner believes a telephonic or personal interview would advance the prosecution of the subject application, the Examiner is invited to contact attorney Gildea during business hours at the telephone or facsimile numbers listed below.

IV. FEES

A petition under 37 C.F.R. § 1.136(a) for a two (2) month extension, and authorization to deduct the appropriate fee from Deposit Account No. 01-2213 accompanies said petition.

No other fees are believed to be due to The Office for consideration of this paper. If however, The Office determines that any fee is properly due for its consideration of this paper, authorization is hereby granted to charge any required fee associated with the filing or proper consideration of this paper to Deposit Account 01-2213 (Invoice No. BP0306-US).

Respectfully submitted  
on behalf of Applicants,

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Date

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